

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

<p>In the Matter of the Petition of</p> <p>DARIGOLD, INC.,</p> <p style="text-align: center;">Petitioner,</p> <p>Seeking Exemption from the Provisions of WAC 480-60-050 Relating to Side Clearances</p>	<p>DOCKET TR-230717</p> <p>ORDER 01</p> <p>GRANTING PERMANENT EXEMPTION FROM RULES, SUBJECT TO CONDITIONS</p>
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**BACKGROUND**

- 1 On September 5, 2023, Darigold, Inc. (Darigold or Company), filed with the Washington Utilities and Transportation Commission (Commission) a petition (Petition) requesting exemption from WAC 480-60-050, which requires railroad companies to maintain a side clearance of at least 8 feet 6 inches from the centerline of the track to the nearest structure.
- 2 Darigold operates a facility at 400 Alexander Road, Sunnyside, where it is served by the Central Washington Railroad Company (Central Washington Railroad). Two industry spur tracks diverge from Central Washington Railroad’s Sunnyside Industrial Lead at milepost 1.05 and run from south to north, parallel to and immediately east of the Darigold building for 840 feet. The centerline of Track 1 is 7 feet, 11 and 1/4 inches from the building, which is less than the minimum required distance of 8 feet 6 inches. This creates a restricted clearance requiring an exemption from Commission rule.
- 3 Two “Danger – Not Sufficient Clearance” signs that conform to Union Pacific Railroad Standard Drawing 0507 are currently in place. These signs face approaching rail traffic on each side of the turnout switch points where Darigold Tracks 1 and 2 diverge. Overhead illumination is in place for nighttime operations. Central Washington Railroad will notify its employees in writing of the restricted clearances through its employee timetable or special instructions.

4 Commission Staff (Staff) reviewed the request and recommends granting Darigold's request for exemption, subject to the following condition(s):

- (a) Darigold must maintain the existing "Danger – Not Sufficient Clearance" signs, as depicted in the petition attachment, facing approaching rail traffic on each side of the turnout switch points where Darigold Tracks 1 and 2 diverge.
- (b) Darigold must maintain the existing overhead illumination during operations occurring during hours of darkness.
- (c) Central Washington Railroad must provide written notification of the restricted clearance to its employees, and must provide a copy of this notification to Staff within 60 days of the date of this order.

### DISCUSSION

5 WAC 480-60-050 prescribes a general minimum side clearance of 8 feet 6 inches from the centerline of the track to adjacent structures. These general side clearance requirements apply to the Darigold facility and permanent exemption from these rules is required for any structures not meeting these requirements.

6 Under WAC 480-60-020(3), the Commission may grant an exemption from the provisions of any rule in WAC 480-60 if doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

7 Although train crewmembers have no reason to ride a rail car at this location, any clearance exemption should be conditioned upon a prohibition against riding on the side of a rail car and clearly signing the location as having reduced side clearances.

8 The Commission determines that Darigold's request for clearance exemption for its Sunnyside facility is consistent with the public interest, the purposes of WAC 480-60-050, and the applicable statutes. The Commission grants the exemption subject to Staff's recommended conditions listed in paragraph 4.

### FINDINGS AND CONCLUSIONS

9 (1) The Commission is an agency of the State of Washington having jurisdiction over public service companies, including railroad companies, within the state of

Washington. RCW 80.01.040, Chapter 81.01 RCW, Chapter 81.04 RCW, and Chapter 81.53 RCW.

- 10 (2) Central Washington Railroad is engaged in the business of providing railroad services within the state of Washington and is a public service company subject to Commission jurisdiction.
- 11 (3) Central Washington Railroad is subject to WAC 480-60-050, which requires railroad companies to maintain a side clearance of at least 8 feet 6 inches from the center of the track to adjacent structures.
- 12 (4) Under WAC 480-60-020(3), the Commission may grant an exemption from the provisions of any rule in WAC 480-60, if consistent with the public interest, the purposes underlying regulation, and applicable statutes. See also WAC 480-07-110.
- 13 (5) A restricted clearance can exist, and safety can be maintained, if Darigold maintains approved warning signs facing approaching rail traffic on each side of the turnout switch points where Darigold Tracks 1 and 2 diverge and provides illumination during operation occurring during hours of darkness, and if Central Washington Railroad provides written notification of the restricted clearances to its employees.
- 14 (6) Staff investigated the request and recommends that permanent exemption be granted.
- 15 (7) This matter came before the Commission at its regularly scheduled meeting on October 12, 2023.
- 16 (8) After review of the petition filed by Darigold on September 5, 2023, and giving due consideration, the Commission finds that the exemption is in the public interest, is consistent with the purposes underlying the regulation and applicable statutes, and should be granted.

**ORDER**

**THE COMMISSION ORDERS:**

- 17 (1) After the effective date of this Order, Darigold Inc. is granted exemption from  
WAC 480-60-050 relating to side clearances.
- 18 (2) This exemption is subject to the following conditions:
- (a) Darigold Inc. must maintain the existing “Danger – Not Sufficient Clearance” signs, as depicted in the petition attachment, facing approaching rail traffic on each side of the turnout switch points where Darigold Inc. Tracks 1 and 2 diverge.
  - (b) Darigold Inc. must maintain the existing overhead illumination during operations occurring during hours of darkness.
  - (c) Central Washington Railroad Company must provide written notification of the restricted clearance to its employees, and must provide a copy of this notification to Staff within 60 days of the date of this order.
- 19 (3) The Commission retains jurisdiction over the subject matter and Central Washington Railroad Company to effectuate the provisions of this Order.
- 20 The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Lacey, Washington, and effective October 12, 2023.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

KATHY HUNTER  
Acting Executive Director and Secretary